

**REMARKS**

Claims 1-8, 10, 11, 13, and 15-22 are currently pending, claims 16-18 and claim 23 having been withdrawn. Claims 1-8, 10, 11, 13, and 15-22 stand rejected under 35 U.S.C. §§ 112, first paragraph and 103(a).

The Applicant respectfully traverses the grounds for rejection for the reasons provided below. Withdrawal of the grounds for rejection is respectfully requested.

**SECTION 112, FIRST PARAGRAPH REJECTIONS**

Claim 1 has been stands rejected under 35 U.S.C. § 112, first paragraph. More specifically, the Examiner alleges that "sensing a weight change" is not disclosed in the Specification. The Applicant respectfully disagrees.

On page 8 of the Specification it is disclosed that:

It is also possible that it [the bottom of the container C] is observed **by means of the drive 19 that the load decreases**, which indicates that a **part of the weight of the holder is carried by the container bottom or bags present therein** and that, therefore, the holder 14 is at the desired level.

Specification, page 8, lines 16-20 (Emphasis added). Sensing a weight change has to be seen in the context of sensing the end of travel by the drive, sensing its load has decrease as claimed. Thus, to one of ordinary skill in the art, observing by means of the drive that a load decreases is seen to mean "sensing a weight change". Further, to one of ordinary skill in the art, a "means"

that indicates that the container or an upper layer of bags is carrying a portion of the weight of the holder also is seen to mean "sensing a weight change". Accordingly, the term is believed to be adequately disclosed. Withdrawal of the grounds for rejection is respectfully requested.

#### SECTION 103(a) REJECTIONS

Claims 1, 5, 10, 11, and 15 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Number 4,864,801 to Fallas ("Fallas '801") in view of U.S. Patent Number 4,805,379 to Leibetseder, et al. ("Leibetseder"); claims 2-4 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fallas '801 and Leibetseder, further in view of U.S. Patent Number 5,430,994 to Focke ("Focke"); claims 6-8, 13, 20, and 22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fallas '801 and Leibetseder, further in view of U.S. Patent Number 5,123,231 to Fallas ("Fallas '231"); and claims 19 and 21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fallas '801, Leibetseder, Focke, and Fallas '231. The Applicant respectfully traverses the grounds for rejection for the following reasons.

#### Claims 1, 5, 10, 11, and 15

The present invention relates to an apparatus for loading containers with bags. To allow accurate control of vertical movement of the holder without needing heavy expensive motors, during its downward movement, the holder is partly carried by at least one pressure-controlled air cylinder and partly carried by

a drive that controls the vertical position of the holder. See, e.g., Specification, page 4, line 31, to page 5, line 3. As a result, most of the weight of the bags and their contents are carried by the less costly pressure-controlled air cylinder and the holder can be positioned more accurately with the controllable drive. Because the controllable drive need carry only a relatively small weight, the cost and size of the controllable drive may be minimized.

Claim 1 has been further amended to recite that, in addition to partially carrying the weight of the holder, the drive is adapted to sense the bottom of the container or a previously loaded layer.

The Examiner concedes that Fallas '801 does not disclose, *inter alia*, that the holder is partially carried by the pressure-controlled air cylinder and partially carried by the drive that controls the vertical position of the holder. The Examiner asserts, however, that Leibetseder discloses a holder that is partly carried by one pressure controlled air cylinder (35) and partly carried by a drive (20) that controls a vertical position of the holder. More specifically, in the Response to Arguments, the Examiner asserts that "at one point of the downward movement of the pressure-controller air cylinder, [the controller] controls the vertical position of the holder." The Applicant respectfully disagrees.

In pertinent part, claim 1 recites that:

the holder is partly carried by at least one pressure-controlled air cylinder and is **partly carried by a drive controlling a vertical position of the holder.**

In short, the "drive" is a separate and distinct load bearing member that carries a portion of the weight of the holder and its contents. Arguendo, the controller (20) referenced by the Examiner may control the vertical position of the holder, but it does not partially carry the weight of the holder as recited in claim 1. The control is as separate unit not physically connected to the holder, so it cannot support the holder. Nor do cylinder piston units (33) and (34) shown in Leibetseder FIGs. 1 and 2 carry the layer forming means (24); but, rather, raise and lower the wing-like elements (31) for the purpose of spreading and smoothing out a wrapper (13) to line the carton (11). See, e.g., Leibetseder, col. 5, lines 17-42. The weight of the holder and control of the vertical movement is accomplished using a single element, namely, the piston actuator (35). See, e.g., Id., col. 4, lines 49-53.

Moreover, neither reference teaches, mentions or suggests that the drive is adapted to sense the bottom of the container or a previously loaded layer. Accordingly, Leibetseder does not disclose a combination of a pressure controlled air cylinder for carrying a larger portion of the weight of the holder and a drive for carrying a smaller portion of the weight of the holder, for controlling the vertical position of the holder, and for sensing the bottom of the container or a previously loaded layer. Accordingly, claim 1 and all claims depending from claim 1 are believed to be patentable over Fallas '801 in view of Leibetseder.

Claims 2-4

Nor can the Focke reference make up for the deficiencies of the Fallas '801 and Leibetseder references. Focke does not teach mention or suggest a combination of a pressure controlled air cylinder for carrying a larger portion of the weight of the holder and a drive for carrying a smaller portion of the weight of the holder, for controlling the vertical position of the holder, and for sensing the bottom of the container or a previously loaded layer.

Claims 6-8, 13, 20, and 22

Nor can the Fallas '231 reference make up for the deficiencies of the Fallas '801 and Leibetseder references. Fallas '231 does not teach mention or suggest a combination of a pressure controlled air cylinder for carrying a larger portion of the weight of the holder and a drive for carrying a smaller portion of the weight of the holder, for controlling the vertical position of the holder, and for sensing the bottom of the container or a previously loaded layer.

Claims 19 and 21

Nor can the Focke and Fallas '231 references make up for the deficiencies of the Fallas '801 and Leibetseder references. The combination of Focke and Fallas '231 likewise does not teach mention or suggest a combination of a pressure controlled air cylinder for carrying a larger portion of the weight of the holder

and a drive for carrying a smaller portion of the weight of the holder, for controlling the vertical position of the holder, and for sensing the bottom of the container or a previously loaded layer.

In view of the above remarks, all claims are believed to be in condition for allowance. Reconsideration and indication thereof are respectfully requested.

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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AQUARIUS

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